



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

JUN - 2 2014

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**Article Number: 7005 3110 0000 5946 6858**

Klever Lliguipuma  
North Highland Realty Corp.  
183 North Highland Ave.  
Ossining, NY

Re: Notice of Violation and Request for Information Pursuant to Section 9005 of the Solid Waste Disposal Act, as amended

**RCRA-UST-IR-14-010**

Ossining Citgo  
183 North Highland Ave.  
Ossining, NY 10562  
PBS #: 3-489395

Dear Mr. Lliguipuma:

The Solid Waste Disposal Act, as amended, and often referred to as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 et seq., gave the United States Environmental Protection Agency ("EPA") authority to set standards for existing and new underground storage tank ("UST") systems.

In addition, Section 9005(a) of RCRA, 42 U.S.C. §6991d(a), and 40 C.F.R. §280.34 authorizes EPA to require from the owners and operators of UST systems to submit certain information to enable EPA to determine the status of compliance with Subtitle I of RCRA, as amended, 42 U.S.C. § 6991 et seq., and the regulations promulgated pursuant thereto and set forth at 40 C.F.R. Part 280.

On January 8, 2013, EPA inspected the above referenced facility which, at the time, was registered as being owned and/or operated by you. The inspector observed the following potential violations:

**40 C.F.R. §280.70(b): Failure to cap and secure temporarily closed tanks.**

**40 C.F.R. §280.70(c): Failure to permanently close noncompliant tank after one year of temporary closure.**

You are hereby required to submit within thirty (30) calendar days information for the

Underground Storage Tank (UST) systems located at the properties listed above and any other facilities owned and/or operated by you. The EPA requests the information outlined in Enclosure II, pursuant to Section 9005(a) of the Solid Waste Disposal Act, (often referred to as RCRA), 42 U.S.C. § 6991d(a), and 40 CFR § 280.34. This information is necessary to determine whether the UST systems are being operated in compliance with Subtitle I of RCRA, as amended, 42 U.S.C. §§ 6991 et seq., and the regulations promulgated pursuant thereto and set forth at 40 C.F.R. Part 280.

Requests for additional time must be justified, and must be requested within five (5) calendar days of your receipt of this letter. The response or request for additional time must be submitted to the following addressee:

Dennis J. McChesney, Ph.D, MBA, Team Leader  
UST Team  
Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency  
290 Broadway, 20th Floor  
New York, NY 10007-1866  
212-637-4211 (fax)  
Attn: Paul Sacker

An officer or agent who is authorized to respond on behalf of the above-referenced entities, must complete and sign the attached Certification page (Enclosure III), and return it with your response to this Request for Information within thirty calendar days.

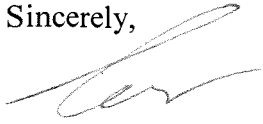
Failure to respond to this letter truthfully and accurately within the time provided may subject you to an enforcement action pursuant to Section 9006 of RCRA, 42 U.S.C. 6991e. Violation of federal UST regulations may result in a formal enforcement action which can include seeking penalties of up to \$16,000 per UST per day of violation. Please also note that all information provided by you may be used in an administrative, civil judicial, or criminal action. In addition, making a knowing submission of materially false information to the U.S. Government may be a criminal offense.

Subject to 40 C.F.R. Part 2, you may assert a business confidentiality claim covering all or part of the information herein requested. The claim may be asserted by placing on (or attaching to) the information at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret", "proprietary", or "company confidential". The claim should set forth the information requested in 40 C.F.R. Section 2.204(e)(4). Information covered by such a claim will be disclosed by EPA only to the extent permitted by, and by means of procedures set forth in, 40 C.F.R. Part 2. EPA may, at its discretion, evaluate the confidentiality claim pursuant to procedures set forth at 40 C.F.R. Part 2. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you.

This request for information is not subject to the requirements of the Paperwork Reduction Act as amended by 44 U.S.C. 3501 et seq.

If you have any questions concerning the information requested, please contact Paul Sacker at (212) 637-4237 or by e-mail at [sacker.paul@epa.gov](mailto:sacker.paul@epa.gov).

Sincerely,



Leonard Voo, Chief  
RCRA Compliance Branch  
Division of Enforcement and Compliance Assistance

Enclosures

cc: Edward Moore  
Remediation/Spills Engineer  
DEC Region 3  
21 South Putt Corners Road  
New Paltz, NY 12561

J. Carlos Torres  
Director  
Office of Environmental Health Risk Control  
Westchester County Department of Health  
145 Huguenot St.  
New Rochelle, NY 10801



## ENCLOSURE I

### INSTRUCTIONS AND DEFINITIONS

In responding to this Request for Information, apply the following instructions and definitions:

1. The signatory should be an officer or agent who is authorized to respond on behalf of the owner of the property known as:

Ossining Citgo  
183 North Highland Ave.  
Ossining, NY  
PBS #: 3-489395

The signatory must sign the attached Certification of Answers (Enclosure III) and return it with the response to this Request for Information.

2. A complete response must be made to each individual question in this Request for Information. Identify each answer with the number of the question to which it is addressed.
3. In preparing your response to each question, consult with all present and former employees and agents of the company or facility whom you have reason to believe may be familiar with the matter to which the question pertains.
4. In answering each question, identify all contributing sources of information.
5. It is your responsibility to try to obtain any information pertinent to any question. If you are unable to answer a question in a detailed and complete manner or if you are unable to provide any of the information or documents requested, indicate the reason for your inability to do so. If you have reason to believe that there is an individual who may be able to provide more detail or documentation in response to any question state that person's name and last known address and phone number and the reasons for your belief.
6. If you cannot provide a precise answer to any question, please approximate and state the reason for your inability to be specific.
7. For each document produced in response to this Request for Information, indicate on the document or in some other reasonable manner the number of the question to which it applies.
8. If anything is deleted from a document produced in response to the Request for Information, state the reason for and the subject matter of the deletion.
9. If a document is requested but is not available, state the reason for its unavailability. In addition, identify any such documents by author, date, subject matter, number of pages,

and all recipients and their addresses.

10. The company, for the purposes of the Request for Information, are North Highland Realty Corp., and any related corporate entity.
11. Unless the question clearly provides otherwise, each question must be answered for the UST systems located at the facilities listed above and owned and/or operated or previously owned and/or operated by North Highland Realty Corp., and any other partnership, corporate shareholder, parent or subsidiary corporation.
12. Underground storage tank or UST shall be defined, for the purposes of this Request for Information, as any one or combination of tanks (including pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground. See 40 C.F.R. § 280.12.
13. Underground storage tank system or UST system shall be defined, for the purposes of this Request for Information, as an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any. See 40 C.F.R. § 280.12.
14. A facility, for the purposes of this information gathering, is defined as the property on which USTs are or were previously located.
15. Owner shall be defined, for the purposes of this Request for Information, as any person who owns an UST system used for storage, use, or dispensing of regulated substances. See 40 C.F.R. § 280.12.  
  
Operator shall be defined, for the purposes of this Request for Information, as any person in control of, or having responsibility for, the daily operation of an UST system. See 40 C.F.R. § 280.12.
16. WC DOH shall be defined as the Westchester County Department of Health.
17. NYS DEC shall be defined as the New York State Department of Environmental Conservation.

## ENCLOSURE II

### INFORMATION REQUEST

All information requested by EPA pertains to the USTs located on the property known as:

Ossining Citgo  
183 North Highland Ave.  
Ossining, NY  
PBS #: 3-489395

For each of the following questions please provide documentation such as lease agreements, engineering reports, as built drawings, registrations, tests, proposals, work orders, invoices, etc., site assessments, or closure reports to support your answers to each question. Submit the information in the order presented below.

#### **UST Owner/ Operator History**

1. Provide the names, addresses and telephone numbers of all entities that own the property listed above. Provide the month/ day/ year in which any or all owners acquired ownership of the properties.
2. Provide the names, addresses and telephone numbers of all entities that own and/or operate the USTs located at the property listed above. Provide the month/ day/ year in which any or all owners or operators acquired ownership of the USTs.
3. Describe the legal relationship between the owners of the properties listed above and the owners or operators of the USTs. Provide documentation supporting your statements.
4. If any of the facility name and/or address information listed above is incorrect, please provide the correct information including facility mailing address if different.

**Note 1: We have on record that the former owner of this facility was either Barrier Motor Fuel or Greenburgh Realty, Inc.. Please provide documentation showing when North Highland Realty Corp. purchased the facility and USTs from the previous owner and state what relationship, if any, was or is maintained with either Barrier Motor Fuel or Greenburgh Realty, Inc..**

#### **General UST Information**

5. Provide a copy of each facility's UST original registration application (required to be provided to the WC DOH) and a copy of the current registration certification.
6. Provide the day, month, and year that each UST was installed. If the installation date is unknown, please state so or give your best estimation.

7. Provide the capacity of each UST and indicate the regulated substances currently stored, or which were stored, in each UST.
8. Provide the construction material of tank and piping for each UST system, and if available the name of the manufacturer of the underground tank.
9. Indicate whether the fuel pipes are pressurized or suctioned.

#### **Overfill, Spill, and Corrosion Protection**

10. State the type of overfill prevention devices employed with each UST. The three main types of overfill protection devices are: automatic shutoff devices (sometimes referred to as a "fill pipe device"), overfill alarms, and ball float valves.
11. State if the USTs have catchment basins which are also called "spill containment manholes" or "spill buckets."
12. For each UST and pipe system that are made of unprotected metal, state the type of corrosion protection (cathodic - sacrificial or impressed current, or interior lining) used for each component. For systems protected by cathodic protection, provide copies of the last two corrosion tests. For systems with internal liners, please provide the results of all liner inspections for the last five years.

#### **Leak Detection for the USTs**

13. Please provide for each UST the method(s) of leak detection used to comply with the leak detection regulations found in 40 C.F.R. § 280.40 to § 280.45, which are either Monthly Monitoring (which includes, secondary containment with interstitial monitoring, vapor monitoring, groundwater monitoring, statistical inventory reconciliation (SIR), automatic tank gauging\* (ATG), or other methods approved by NYSDEC\*\*.

\* If the leak detection method is Automatic Tank Gauging (ATG), please state the manufacturer and model of the ATG along with a description of its capabilities.

\*\* Please be aware that the 10-day inventory control reconciliation method approved by NYS DEC and WC DOH is not an adequate form of release detection under Federal law for any tanks older than ten years of age. Please do not provide these records as evidence of release detection for tanks 10 year or older. If any tanks using this method are under 10-years of age and you want to demonstrate this method for release detection, please also provide the latest tank tightness tests.

#### **Leak Detection for Pressurized Pipes.**

14. If any of the USTs contain pressurized fuel pipes provide documentation showing that the fuel pipes are equipped with an automatic line leak detector.



- a) Either show that the fuel pipes have had an annual line tightness test which is able to detect a 0.1 gallon per hour leak rate at one and one-half times the operating pressure, or has monthly monitoring such as, secondary containment with interstitial monitoring, vapor monitoring, groundwater monitoring, statistical inventory reconciliation (SIR), or any other method approved by WC DOH and,
- b) Describe the type of leak detector used, and if applicable, provide copies of records showing that the line leak detectors have been tested during the past twelve months.

### **Closure**

15. If any UST system was temporarily closed or out of service between December 22, 1988 and the date of your response, please provide:
- a) The date it was temporary closed or taken out of service;
  - b) The period of time it was closed or non-operational; and
  - c) Whether the UST system was empty, as defined by 40 C.F.R. § 280.70 (a), during the period of temporary closure.

**Note 2: During a January 8, 2013 EPA inspection of the facility known as Ossining Citgo, 183 North Highland Ave., Ossining Citgo, NY, the inspector was notified that the four USTs at this facility had been out of service for six years. The inspector was notified that the USTs used a combination of sacrificial anodes and internal liner for corrosion protection. However, the inspector was not provided evidence that the sacrificial anodes were cathodically tested for operation as required by 40 C.F.R. §280.31 and §280.70(a) (required for tanks in temporary closure). Therefore, please provide evidence of any cathodic testing of the sacrificial anodes for the period of January 2007 to the present. If no cathodic protection tests for the sacrificial anodes can be provided for the four tanks, please state so and explain why no device exists for this tank.**

**(We do have on file an October 26, 2012 report from WCC Tank Technology, Inc. with passing testing results on the internal liners that states cathodic protection is not required. However, tanks that use a combination of sacrificial anodes and liner are exempt from the periodic liner tests of 40 C.F.R. §280.21(b) but must instead test the sacrificial anodes every three years as required by 40 C.F.R. §280.31.)**

**Note 3: During the January 8, 2013 EPA inspection, the inspector saw no evidence that the four temporarily closed tanks were capped and secured as required by 40 C.F.R. §280.70(b). Therefore, please provide the date the tanks were placed into temporary closure and submit evidence that, within three months of that date, the vent lines were left open and functioning; and you capped and secure all other lines, pumps, manways, and**

**ancillary equipment up and until the sale of the facility.**

16. If any UST system is permanently closed, or if there was a change in service from regulated to non-regulated substances, provide:
  - (a) The date of permanent closure or of the change in service; and
  - (b) A copy of the site assessment report required by 40 C.F.R. § 280.72.

**Financial Responsibility**

17. Please provide documentation of compliance with federal regulatory financial responsibility requirements (40 CFR 280 Subpart H) in case of a release from a UST.

**Other Facilities**

18. Provide a complete list of all the facilities you/ your entity own(s) and/or operate(s) which utilize federally-regulated UST systems. For each facility indicate the number of UST systems, and include each facility's UST registration number.

### ENCLOSURE III

#### CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

I certify under the penalty of law that I have personally examined and am familiar with the information submitted in response to EPA's Request for Information, and all documents submitted herewith; that the submitted information is true, accurate, and complete; and that all documents submitted herewith are complete and authentic, unless otherwise indicated. I am aware that there are significant penalties for submitting false information which may include the possibility of fine and imprisonment.

Name (print or type)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
AFFILIATION

